

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

USDC SDNY
DOCUMENT
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DATE FILED: 09/06/2023

PHUNWARE, INC.,

Plaintiff,

vs.

UBS SECURITIES LLC,

Defendant.

Docket No. 1:23-cv-06426

**JOINT STIPULATION REGARDING SERVICE AND TIME
TO RESPOND TO COMPLAINT**

Plaintiff Phunware, Inc. and Defendant UBS Securities LLC, by and through their respective undersigned counsel, subject to this Court's approval and to the reservation of rights below, agree and stipulate as follows:

WHEREAS, on July 25, 2023, Plaintiff commenced the above-captioned action (the "Action"), by filing a complaint alleging violations of the Exchange Act of 1933 and the Securities Exchange Act of 1934 against Defendant (the "Complaint");

WHEREAS, on July 26, 2023, the Court issued a Summons directed to Defendant (the "Summons"), and Plaintiff has subsequently commenced efforts to effect service of process upon Defendant;

WHEREAS, Defendant has agreed to accept service of the Summons and Complaint subject to the terms and conditions of the stipulation below;

WHEREAS, all parties have agreed to the below schedule for Defendant to respond to the complaint;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED as follows:

1. Subject to the reservation of rights contained in paragraph 6 below, Defendant agrees to waive service of the Summons and Complaint;

2. The time for Defendant to move against, answer, or otherwise respond to the Complaint, is extended to and includes October 6, 2023.

3. To the extent ordered by the Court, in advance of October 6, 2023, the parties will comply with the Court's Special Rules for Motions to Dismiss by serving and/or filing pre-motion letters as set out in this Court's Individual Practices §§ III.A and III.B.

4. If Defendant decides to file a motion to dismiss, and unless the Court orders otherwise:

- a. Defendant shall move to dismiss the Complaint by October 6, 2023;
- b. On or before October 16, 2023, Plaintiff shall notify the Court and Defendant in writing whether (1) it intends to file an amended pleading and when it will do so; or (2) it will rely on the pleading being attacked;
- c. To the extent Plaintiff notifies the Court it will rely on its current pleading, Plaintiff shall respond to the motion to dismiss on or before December 5, 2023.
- d. Defendant shall file a reply in further support of its motion to dismiss on or before January 4, 2023.

5. Upon resolution of Defendant's motion to dismiss, the parties will promptly submit a Case Management Plan and Scheduling Order to the Court in accordance with Rule 16 of the Federal Rules of Civil Procedure if necessary.

6. Except as to the defense of insufficiency of service of process, no defense of the Defendant to the claims in the Action, including, without limitation, defenses based upon lack of personal or subject matter jurisdiction, lack of standing, improper venue or a defendant having

been improperly named, is prejudiced or waived by the execution of, agreement to, or filing of, this stipulation, or by the agreement to accept service of the Summons and Complaint.

Dated: New York, New York
August 28, 2023

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SO ORDERED.

Dated: September 6, 2023
New York, New York



ANALISA TORRES
United States District Judge